

# House File 2354 - Introduced

HOUSE FILE 2354  
BY COMMITTEE ON ECONOMIC  
GROWTH/REBUILD IOWA

(SUCCESSOR TO HSB 590)

(COMPANION TO SF2212 BY  
COMMITTEE ON ECONOMIC  
GROWTH/REBUILD IOWA)

## A BILL FOR

1 An Act relating to economic development by making technical  
2 and policy changes related to environmental response  
3 projects and to certain programs administered by the  
4 economic development authority and including retroactive  
5 applicability provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

TARGETED JOBS WITHHOLDING ELIGIBILITY

Section 1. Section 403.19A, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. *"Business"* means any an enterprise that is located in this state and that is operated for profit and under a single management. *"Business"* includes professional services, ~~or industrial enterprise, including and industrial enterprises, including but not limited to~~ medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. *"Business"* does not include a retail operation, a government entity, or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

DIVISION II

ACCELERATED CAREER EDUCATION PHYSICAL INFRASTRUCTURE PROJECTS

Sec. 2. Section 260G.6, subsections 1, 3, and 4, Code Supplement 2011, are amended to read as follows:

1. An accelerated career education fund is established in the state treasury ~~under the control of the economic development authority~~ consisting of moneys appropriated to the authority fund for purposes of funding the cost of accelerated career education program capital projects.

3. If moneys are appropriated by the general assembly to support program capital costs, the moneys shall be allocated ~~according to rules adopted by the economic development authority pursuant to chapter 17A~~ equally to each community college.

~~4. In order to receive moneys pursuant to this section, a program agreement approved by the community college board of directors shall be in place, program capital cost requests shall be approved by the economic development authority created in section 15.105, and employer contributions toward program capital costs shall be certified and agreed to in the agreement. Program capital cost requests shall be approved~~

1 ~~or denied not later than sixty days following receipt of the~~  
2 ~~request by the economic development authority.~~

3 DIVISION III

4 IOWA INNOVATION COUNCIL

5 Sec. 3. Section 15.117A, subsection 2, Code Supplement  
6 2011, is amended by adding the following new paragraph:

7 NEW PARAGRAPH. c. A vacancy on the council shall be filled  
8 in the same manner as the original selection and shall be for  
9 the remainder of the term.

10 DIVISION IV

11 ENTERPRISE ZONE CERTIFICATION SUNSET

12 Sec. 4. Section 15E.192, subsection 4, paragraph b, Code  
13 Supplement 2011, is amended to read as follows:

14 b. A county or city may apply to the authority for an area  
15 to be certified as an enterprise zone at any time prior to July  
16 1, ~~2012~~ 2014. However, the total amount of land designated as  
17 enterprise zones under subsection 1, and any other enterprise  
18 zones certified by the authority, excluding those approved  
19 pursuant to subsection 2 and section 15E.194, subsections 3 and  
20 5, shall not exceed in the aggregate one percent of the total  
21 county area.

22 DIVISION V

23 ENVIRONMENTAL RESPONSE PROJECTS

24 Sec. 5. Section 455I.2, subsection 5, unnumbered paragraph  
25 1, Code 2011, is amended to read as follows:

26 "*Environmental response project*" means a plan or work  
27 performed for environmental remediation or flood control  
28 affecting real property and conducted under or by one of the  
29 following:

30 Sec. 6. Section 455I.11, subsection 3, Code 2011, is amended  
31 to read as follows:

32 3. A person is not responsible for or subject to liability  
33 for environmental remediation or flood control solely because  
34 it has the right to enforce an environmental covenant.

35 Sec. 7. RETROACTIVE APPLICABILITY AND COVENANT VALIDITY.

1     1. This division of this Act applies retroactively to  
2 an instrument entered into on or after July 1, 1992, and  
3 before the effective date of this division of this Act, if the  
4 instrument meets the following requirements:

5     a. The instrument creates restrictions or obligations with  
6 respect to flood control affecting real property that would  
7 qualify as activity and use limitations under chapter 455I, as  
8 amended in this division of this Act.

9     b. A grantor or holder or a party to or beneficiary of  
10 the instrument, as named in the instrument, files by July 1,  
11 2013, in the office of the recorder of deeds of the county in  
12 which the real estate is situated, a statement in writing, duly  
13 acknowledged, doing all of the following:

14     (1) Definitely describing the real estate involved and  
15 the originally recorded instrument creating the restrictions  
16 or obligations with respect to flood control affecting real  
17 property.

18     (2) Declaring that such instrument is an environmental  
19 covenant for purposes of chapter 455I, as amended in this  
20 division of this Act.

21     2. An instrument meeting the requirements of this section of  
22 this division of this Act is valid and enforceable under the  
23 provisions of chapter 455I, as amended in this division of this  
24 Act, and the validity of the environmental covenant established  
25 by the instrument is not impaired by section 558.68 or 614.24.

26                     DIVISION VI

27                     REGIONAL SPORTS AUTHORITY DISTRICTS

28     Sec. 8. Section 15E.321, subsection 2, Code Supplement  
29 2011, is amended to read as follows:

30     2. a. A convention and visitors bureau may apply to the  
31 authority for certification of a regional sports authority  
32 district which may include more than one city and more than  
33 one convention and visitors bureau within the district. The  
34 authority shall not certify more than ten such districts.

35     b. If more than ten applications are received in any

1 certification year, the authority shall certify the districts  
2 on a competitive basis. In evaluating the applications for  
3 certification, the authority shall consider the economic impact  
4 to the state of the activities proposed in the application, the  
5 geographic diversity of the districts applying, and any other  
6 factors the authority deems relevant.

7 DIVISION VII

8 CONFIDENTIAL INFORMATION

9 Sec. 9. Section 15.118, subsection 2, Code Supplement 2011,  
10 is amended to read as follows:

11 2. All information contained in an application for  
12 financial assistance submitted to the authority shall remain  
13 confidential while the authority is reviewing the application,  
14 processing requests for confidentiality, negotiating with the  
15 applicant, and preparing the application for consideration by  
16 the director or the board. The authority may release certain  
17 information in an application for financial assistance to a  
18 third party for technical review. If the authority releases  
19 such information to a third party, the authority shall ensure  
20 that the third party protects such information from public  
21 disclosure. After the authority has considered a request for  
22 confidentiality pursuant to subsection 3, any information not  
23 deemed confidential shall be made publicly available. Any  
24 information deemed confidential by the authority shall also  
25 be kept confidential during and following administration of  
26 a contract executed pursuant to a successful application.  
27 Information deemed confidential may be treated as such for as  
28 long as the authority deems necessary to protect an applicant's  
29 competitive position, and the confidential treatment of the  
30 information shall apply whether the authority is in possession  
31 of the information or whether the information has been sent to  
32 off-site storage or to the state archivist.

33 DIVISION VIII

34 EMPLOYEES ELIGIBLE FOR JOBS TRAINING PROGRAMS

35 Sec. 10. Section 260E.2, subsection 6, Code 2011, is amended

1 to read as follows:

2 6. "Employee" means the person employed in a new job.  
3 "Employee" does not include a person not subject to the  
4 withholding of Iowa income pursuant to a reciprocal agreement  
5 under section 422.8, subsection 5.

6 Sec. 11. Section 260F.2, subsection 6, Code Supplement  
7 2011, is amended to read as follows:

8 6. "Employee" means a person currently employed by a  
9 business who is to be trained. However, "employee" does not  
10 include a person with executive responsibilities or replacement  
11 workers who are hired as a result of a strike, lockout, or  
12 other labor dispute in Iowa.

13 EXPLANATION

14 This bill makes technical and policy changes relating  
15 to environmental response projects and certain programs  
16 administered by the economic development authority (EDA).

17 Division I of the bill amends the definition of "business"  
18 under Code section 403.19A, which determines the eligibility  
19 of an entity to enter into an agreement with a pilot project  
20 city under the targeted jobs withholding credit program. The  
21 bill adds that a business for purposes of the targeted jobs  
22 withholding credit program is a for-profit enterprise that  
23 is located within the state and that operates under single  
24 management. The bill provides that a government entity does  
25 not constitute a business for purposes of the program.

26 Division II of the bill amends Code section 260G.6 to provide  
27 that the EDA would not control the accelerated career education  
28 fund, and appropriations for accelerated career education would  
29 be directed to the fund rather than the EDA. The bill states  
30 that moneys appropriated by the general assembly for program  
31 capital costs shall be allocated equally to each community  
32 college rather than requiring the EDA to allocate the moneys.  
33 The bill strikes language that requires a program agreement to  
34 be in place. The bill strikes language that would require the  
35 EDA to approve program capital cost requests.

1 Division III of the bill amends Code section 15.117A to  
2 require a vacancy on the Iowa innovation council be filled  
3 for the remainder of the term in the same manner in which the  
4 original selection was made.

5 Division IV of the bill amends Code section 15E.192 to allow  
6 counties or cities to apply to the EDA to be certified as an  
7 enterprise zone any time prior to July 1, 2014, rather than  
8 July 1, 2012.

9 Division V of the bill amends Code section 455I.2 defining  
10 an environmental response project to include a plan or  
11 work performed for flood control. Current law and the bill  
12 exempt a flood covenant that meets certain standards from  
13 the requirement that certain conveyances containing land use  
14 restrictions be renewed every 21 years. Under the bill, a  
15 flood covenant can be exempted if a grantor or holder or  
16 any party to or beneficiary of the flood control covenant,  
17 who is named in the document creating the flood control  
18 covenant, files a written statement that is duly acknowledged  
19 and definitely describes the real estate involved in the  
20 original recorded flood control covenant and describes the  
21 originally recorded flood control covenant. The written  
22 statement must also declare that the flood control covenant is  
23 an environmental covenant for purposes of Code chapter 455I.  
24 Division V applies retroactively to eligible flood control  
25 covenants entered into on or after July 1, 1992, and before the  
26 effective date of this division of this Act.

27 Division VI of the bill amends Code section 15E.321 to  
28 include criteria for the EDA to consider when determining  
29 whether to certify a regional sports authority district when  
30 more than 10 applications for certification are received.

31 Division VII of the bill amends Code section 15.118 to add  
32 that an applicant's confidential information contained in an  
33 application for financial assistance may remain confidential  
34 as long as necessary to protect the applicant's competitive  
35 position. The bill also provides that the information's

1 confidential status and treatment applies regardless of  
2 whether the authority has possession of the information or the  
3 information has been sent to off-site storage or the state  
4 archivist.

5 Division VIII of the bill amends Code sections 260E.2 and  
6 260F.2 regarding the definition of an employee for purposes  
7 of the industrial new jobs training and the jobs training  
8 programs, respectively. The bill provides that an employee for  
9 purposes of eligibility for the jobs training program does not  
10 include a person with executive responsibilities. The bill  
11 also provides that a person not subject to withholding of Iowa  
12 income tax because of a reciprocal withholding agreement with  
13 another state does not qualify as an employee for purposes of  
14 eligibility for the industrial jobs training program.